| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/024,526 | 12/21/2001 | Subir E. Gupta | 005222.00117 | 2157 |

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| 29638          7590          01/29/2007<br>BANNER & WITCOFF, LTD.<br>ATTORNEYS FOR CLIENT NO. 005222<br>10 S. WACKER DRIVE, 30TH FLOOR<br>CHICAGO, IL 60606 | **EXAMINER**<br>MEINECKE DIAZ, SUSANNA M |

| ART UNIT | PAPER NUMBER |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>16 November 2006</u>.

2a)☐ This action is **FINAL**.     2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-5 and 7-22</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-5 and 7-22</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

## DETAILED ACTION

### Continued Examination Under 37 CFR 1.114

1.    A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

November 16, 2006 has been entered.

Claims 1, 7-11, 13, 14, 21, and 22 have been amended.

Claim 6 has been cancelled.

Claims 1-5 and 7-22 are presented for examination.

### Response to Arguments

2.    Applicant's arguments with respect to claims 1-5 and 7-22 have been considered

but are moot in view of the new ground(s) of rejection, which are necessitated by

Applicant's claim amendments.

### Claim Rejections - 35 USC § 103

3.    The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.      Claims 1-5 and 7-22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Woo et al. (U.S. Patent No. 6,910,017) in view of Ruth et al. (US 2002/0059003).

Woo discloses a method for analyzing product sales strategies using archived

sales data, said method comprising the steps of:

[Claim 1]      importing a sales profile (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines

1-33);

defining an analysis period (col. 5, lines 34-49; col. 6, lines 19-41; col. 7, line 21

through col. 8, line 49);

formatting at least a part of the archived sales data into one or more database

files (col. 3, lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33);

verifying the integrity of the one or more database files based on validating the

archived sales data (col. 8, lines 39-49 – The model is modified as new actual data on

sales becomes available. By revising or updating a model equation based on new sales

data, it is understood that old data is being replaced because it is no longer the most

accurate data available. In other words, the integrity of the data is no longer sufficient

enough for the model equation since more accurate data is available. If there is no

need to revise or update a model equation, it is understood that the stored model

equation data is still valid and therefore has good integrity on some level for purposes of

applying the model equation);

calculating an adjusted weekly sale value based on said sales profile, said

analysis period, and at least one of the one or more database files (col. 5, lines 34-49;

col. 6, lines 19-41; col. 7, line 21 through col. 8, line 49);

calculating an uplifted sale value based on a selected uplift percentage (Fig. 6;

col. 6, line 60 through col. 7, line 14); and

calculating a profit based on said uplifted sale value and said adjusted weekly

sale value (col. 5, lines 34-49; col. 6, lines 19-41; col. 7, line 21 through col. 8, line 49);

[Claim 2]     performing a risk analysis (col. 3, lines 19-23; col. 8, lines 19-38);

[Claim 3]     archiving said adjusted weekly sale value (col. 8, lines 38-49 – New data,

based on weekly sales, is used to refine the model as such data becomes available);

[Claim 4]     wherein said step of performing a risk analysis comprises a step of

performing a best case analysis (col. 8, lines 19-38 – A scenario in which higher

profitability is predicted with a lower probability chance of occurring is a best case

analysis. Also, as per col. 5, lines 34-44, predicted profitability is determined within a

range of error. Each extreme in this range of error reflects a best and worst case

analysis, respectively);

[Claim 5]     wherein said step of performing a risk analysis comprises a step of

performing a worst case analysis (col. 8, lines 19-38 – A scenario in which lower

profitability is predicted with a higher probability chance of occurring is a worst case

analysis. Also, as per col. 5, lines 34-44, predicted profitability is determined within a

range of error. Each extreme in this range of error reflects a best and worst case

analysis, respectively);

[Claim 7]     wherein at least one of said one or more text files comprises a

spreadsheet (col. 5, lines 1-33);

[Claim 8]     wherein at least one of said one or more text files comprises a hierarchy

file listing products identified by product number (col. 3, lines 51-52; col. 4, line 42);

[Claim 9]     wherein said step of formatting at least a part of the archived sales data

into one or more text files (col. 4, lines 7-10; col. 5, lines 1-28 – Data must be entered in

order to populate the files) comprises the steps of:

entering a class number and a class description (col. 3, line 35 through col. 4,

line 47);

entering a subclass number and a subclass description (col. 3, line 35 through

col. 4, line 47);

entering a style number and a style description (col. 3, line 35 through col. 4, line

47);

entering an option number and an option description (col. 3, line 35 through col.

4, line 47); and

entering a product identifier number and an identifier number description (col. 3,

line 35 through col. 4, line 47);

[Claim 10]    wherein at least one of said one or more text files comprises an actuals

file listing empirical figures for product sales (col. 3, lines 39-49; col. 8, lines 38-49);

[Claim 11]    wherein said step of formatting at least a part of the archived sales data

into one or more text files (col. 4, lines 7-10; col. 5, lines 1-28 – Data must be entered in

order to populate the files) comprises the steps of:

entering a week and a product identifier number (col. 2, lines 53-67; col. 3, line

39 through col. 4, line 47);

entering pricing data (col. 2, lines 53-67);

entering stock on hand (col. 2, lines 53-67); and

entering commitment and sales units (col. 2, lines 53-67; col. 3, lines 15-16);

[Claim 13]    wherein at least one of said one or more database files comprises a

relational database (col. 5, lines 1-33 -- An Access database is a relational database);

[Claim 14]    wherein at least one of said one or more spreadsheet files comprises a

spreadsheet database (col. 5, lines 1-33 -- An Excel database is a spreadsheet

database);

[Claim 19]    wherein said step of validating the archived sales data comprises the step

of checking file entries (col. 8, lines 39-49 – The model is modified as new actual data

on sales becomes available);

[Claim 20]    wherein said step of validating the archived sales data comprises the step

of checking for new sales data (col. 8, lines 39-49 – The model is modified as new

actual data on sales becomes available).


Regarding claim 1, Woo does not expressly teach the step of formatting the

verified database files into one or more corresponding spreadsheet files, wherein the

step of verifying the integrity of the one or more database files is performed prior to

formatting the verified database files into the one or more spreadsheet files.  However,

Ruth allows a user to retrieve and analyze data from disparate data sources more

efficiently (¶ 7).  Ruth accomplishes this by testing the performance of a data model and

verifying the hierarchical structure contents (i.e., verifying the integrity of one or more

database files) prior to translating the hierarchy into single file format (i.e., formatting the verified database files) (¶ 135). "The data hierarchy can be incorporated into a computing system either as a spreadsheet with columns having hierarchy data, or through a graphical user interface for creating and editing a hierarchy" (Ruth: ¶ 135), thereby indicating that the verified database files may be formatted into one or more corresponding spreadsheet files. Additionally, Ruth states that "the term 'data source' refers to any source of data such as database or data storage file..." (¶ 70), which means that the original data that is verified comes from a data source that may include database files. Ruth allows users to access data from disparate locations and organize the data in such a way that it can be analyzed more efficiently. Woo performs sales analysis that would be more accurate when based on more comprehensive sales information; therefore, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Woo to perform the step of formatting the verified database files into one or more corresponding spreadsheet files, wherein the step of verifying the integrity of the one or more database files is performed prior to formatting the verified database files into the one or more spreadsheet files in order to allow users to access data from disparate locations and organize the data in such a way that it can be analyzed more efficiently (as suggested by Ruth). Facilitating Woo's access to sales information from various data sources would allow its sales analyses to be based on more comprehensive sets of data, thereby increasing the likelihood that resulting analyses would be more accurate overall.

[Claim 12]    As discussed above, Woo accepts various types of entry into its databases for price decision support, yet Woo does not expressly disclose that a tax rate is entered.  These differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements; therefore, such differences do not effectively serve to patentably distinguish the claimed invention over the prior art.  The recited method steps would be performed the same regardless of the specific data.  Further, the structural elements remain the same regardless of the specific data.  Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP § 2106. Nevertheless, the Examiner submits that it is old and well-known in the art of sales analysis to incorporate tax rate data.  This is useful to determine the effect, if any, of a local sales tax on the sale of an item.  Since Woo analyzes sales data over time, the Examiner submits that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify Woo to incorporate tax rate entries into its pricing decision calculations in order to facilitate more comprehensive analysis in regions where a local sales tax is significant enough to affect the sale of an item.

[Claim 15]    While Woo's validation is based on determining whether or not sales data is updated (col. 8, lines 39-49), Woo does not expressly teach that the step of validating the archived sales data includes identifying one or more items of the archived sales data with a stock keeping unit (SKU) code of zero.  However, Official Notice is taken

that it is old and well-known in the art of data validation to verify the integrity of data by

checking the data to make sure the data falls within an expected range of quantitative or

qualitative values. This helps to identify and rectify erroneous, stored data values. For

example, a SKU code of zero would be meaningless and erroneous. Therefore, the

Examiner submits that it would have been obvious to one of ordinary skill in the art at

the time of Applicant's invention to modify Woo to perform a validation such that the

step of validating the archived sales data includes identifying one or more items of the

archived sales data with a stock keeping unit (SKU) code of zero in order to swiftly

correct any erroneous, stored SKU codes.

[Claims 16-18]        While Woo validates, or checks for, various types of data for

updating the model (as discussed above), Woo does not expressly teach that validating

archived sales data comprises entering net cost prices (claim 16), entering original

selling prices (claim 17), or checking for new products (claim 18). However, Woo's

calculations are related to optimizing and predicting profit (col. 8, lines 19-45). Woo

also understands that each product has a life cycle which typically peaks at maximum

popularity and then trails off over time (col. 4, lines 48-62). Official Notice is taken that it

is old and well-known in the art of product planning to introduce new products into the

market. This is important to continue interest in one's business, especially to replace

older products that drift into obsolescence. Furthermore, it is also old and well-known in

the art of sales that profit is directly correlated to selling prices and net cost prices.

Since Woo validates its model based on continuously updated information (including

lifecycle data) to improve predictions (col. 8, lines 45-49), the Examiner submits that it

would have been obvious to one of ordinary skill in the art at the time of Applicant's

invention to modify Woo to validate archived sales data by entering net cost prices

(claim 16), entering original selling prices (claim 17), or checking for new products

(claim 18) in order to more accurately enable Woo's users to perform profit-related

analyses in light of various product lifecycles and introduction of new products, thereby

improving the accuracy of product sales strategy analysis.


[Claims 21, 22]      Claims 21 and 22 recite limitations already addressed by the

rejection of claim 1 above; therefore, the same rejection applies.

Woo is computer-implemented using software and various databases (col. 3,

lines 4-49; col. 4, lines 7-10; col. 5, lines 1-33), thereby addressing the recited software,

processor, and memory limitations.


### Conclusion

5.      Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-

6733. The examiner can normally be reached on Monday-Friday, 8 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammell can be reached on (571) 272-6712. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Susanna M. Diaz
Primary Examiner
Art Unit 3694

January 18, 2007